

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

August Image, LLC, a New York Limited
Liability Company,

Plaintiff,

v.

Holistic Heights, LLC, a Pennsylvania Limited
Liability Company; and Does 1-10,

Defendants.

Case No. 1:25-cv-4198

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff August Image, LLC (“August”) hereby prays for relief from this Court, as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a)-(b).

3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) because this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. August, a photography agency based in New York, NY, is a full-service rights managed collection dedicated to representing an elite group of portrait, lifestyle, beauty, and fashion photographers for editorial and commercial licensing.

5. Upon information and belief, Defendant Holistic Heights, LLC is a Pennsylvania limited liability company with a principal place of business located at 4801 Derry Street, Suite #203, Harrisburg, PA 17111. Defendant’s phone number listed on Defendants’ Website (defined below) is 646-481-4411, the area code for which corresponds to this judicial district. Upon information and belief, Defendant does business in and with the state of New York and this judicial district, including shipping products ordered on and through Defendants’ Website into the state of New York and this judicial district.

6. Upon information and belief, Defendants Does 1-10 are other parties not yet identified who have infringed August’s copyrights. The true names, whether corporate, individual, or otherwise, of Defendants Does 1-10 are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when the same have been ascertained.

7. Upon information and belief, at all relevant times, each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants, and was at all times acting within the scope of such agency, affiliation, alter-ego relationship, and/or employment; and actively participated in, subsequently ratified, and/or adopted each of the acts or conduct alleged, with full knowledge of each violation of August's rights and the damages to August proximately caused thereby.

CLAIMS RELATED TO THE SUBJECT PHOTOGRAPH

8. August is the exclusive administrator, syndicator, and licensing agent for an original photograph registered with the Copyright Office ("Subject Photograph") and is the exclusive licensing agent for the Subject Photograph and the photographer who created it.

9. As such, August is an exclusive owner of the reproduction, distribution, and display rights in and to the Subject Photograph, and therefore has standing to maintain this action under 17 U.S.C. § 501(b).

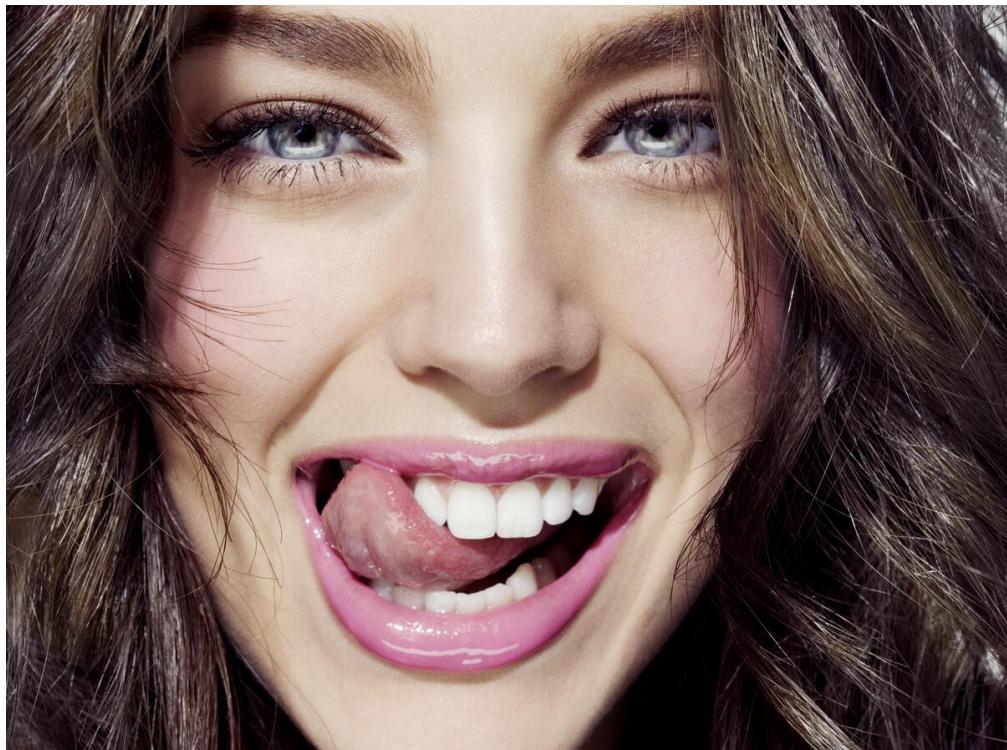
10. The photographer who created the Subject Photograph executed written agreements with August confirming August as the exclusive licensing agent and owner of the reproduction, distribution, and display rights for the Subject Photograph.

11. There is no dispute between August and the photographer who created the Subject Photograph as to the effect of these agreements or August's standing as the owner of the rights in the Subject Photograph as described above.

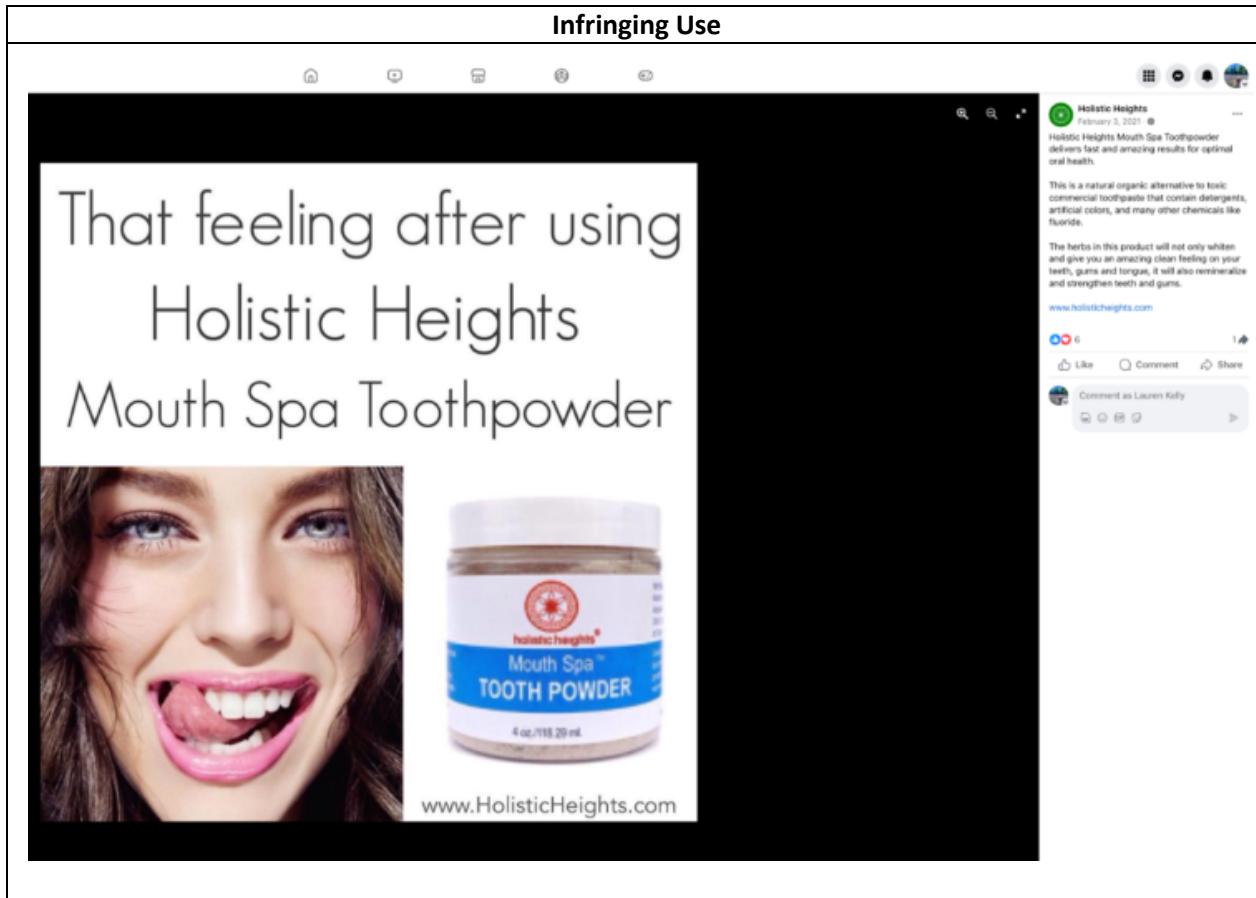
12. On information and belief, Holistic Heights is a lifestyle products company that operates social media accounts that is uses to attract customers and advertise its products and services.

13. August alleges on information and belief that, following the publication and display of the Subject Photograph, Defendants, and each of them, stored, reproduced, displayed, distributed, and otherwise exploited the Subject Photograph for commercial purposes including on by publishing and publicly displaying a cropped same on Holistic Height's commercial Facebook account in an advertisement for Holistic Heights' products ("Infringing Use"):

Subject Photograph



AU258694



14. To the extent Defendants exploited the Subject Photograph more than three years before the filing of this case, August did not know, and had no reason to know, of such exploitations.

15. August at no point authorized Defendants' Infringing Use or otherwise granted Holistic Heights a license to use the Subject Photograph.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

16. August incorporates by reference herein the allegations contained in the preceding paragraphs.

17. Upon information and belief, Defendants, and each of them, accessed the Subject Photograph, including without limitation by viewing the Subject Photograph on and/or through August's and/or the relevant photographer's websites, social media pages, profiles, exhibitions, galleries, and/or authorized licensees; third-party websites or internet search engines. Access is further evidenced by the Subject Photograph's exact reproduction in the Infringing Use.

18. On information and belief, Defendants, and each of them, copied, reproduced, displayed, and/or distributed the Subject Photograph for commercial purposes without August's authorization or consent including without limitation by publishing the Subject Photograph on Holistic Heights' commercial Facebook page to promote its products.

19. August further alleges on information and belief that Defendants, and each of them, have created unlawful derivatives of the Subject Photograph including without limitation by cropping and otherwise modifying the Subject Photograph and incorporating it into an advertisement for Holistic Heights' products without August's consent.

20. Due to Defendants' acts of infringement, August has suffered damages in an amount to be established at trial.

21. Due to Defendants' acts of infringement, Defendants have obtained profits they would not have realized but for their infringement. As such, August is entitled to disgorgement of Defendants' profits attributable to Defendants' infringement in an amount to be established at trial.

22. Upon information and belief, August alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, as the complained-of unauthorized exploitation of the Subject Photograph continued after notice of infringement (and, as of this submission, remains ongoing).

23. August is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement. Within the time permitted by law, August will make its election between actual damages and statutory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- (a) That Defendants, each of them, their respective agents, and/or anyone else working on behalf of or in concert with Defendants or their respective agents, be enjoined from further exploiting the Subject Photograph for commercial purposes in any manner without Plaintiff's authorization absent some independent legal right;
- (b) That Plaintiff be awarded all Defendants' profits, and all Plaintiff's losses, attributable to Defendants' infringement, the exact sum to be proven at the time of trial; or alternatively, if elected, statutory damages as available under 17 U.S.C. § 504;
- (c) That Plaintiff be awarded its fees as available under 17 U.S.C. § 505;
- (d) That Plaintiff be awarded pre-judgment interest as allowed by law;
- (e) That Plaintiff be awarded the costs of this action; and
- (f) That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

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JURY DEMAND

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Dated: May 19, 2025
New York, New York

Respectfully submitted,
DONIGER / BURROUGHS

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